

IN THE CIRCUIT COURT OF WETZEL COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION

MARKWEST LIBERTY MIDSTREAM  
& RESOURCES, L.L.C.,  
*Plaintiff,*

v.

CIVIL ACTION NO. 16-C-82  
JUDGE H. CHARLES CARL, III

J.F. ALLEN COMPANY;  
AMEC FOSTER WHEELER  
ENVIRONMENT & INFRASTRUCTURE, INC.; and  
REDSTONE INTERNATIONAL, INC.;  
*Defendants<sup>1</sup>,*

**BENCH TRIAL ORDER**  
**DAY ELEVEN: OCTOBER 5, 2020**

1. On the 5th day of October, 2020, this matter came on before the Court for a bench trial. By prior agreement of the parties, the Court conducted the bench trial in Hampshire County, West Virginia. The Plaintiff was present by its counsel Kevin L. Colosimo, Joseph M. Ward, and Jonathan G. Brill, and its in-house counsel Natalie Lien. Defendant J.F. Allen Company was present by its counsel Douglas C. LaSota and Nicole L. Carnevale and by its President, Greg Hadjis. Defendant Amec Foster Wheeler Environment & Infrastructure, Inc. was present by its counsel Vic L. McConnell and by its Lead Engineer Chris Ramsey. Defendant Redstone International, Inc. was present by its counsel Bruce E. Stanley and Michael A. Jacks, and by its President, Heath Kefover.

2. Also present was Charles E. Bolyard, Chairman of MBP.

3. The Court inquired as to whether counsel had any objections to the Day Order from yesterday. Counsel had no objections and the Court then entered the Order.

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<sup>1</sup> The remaining Defendants were dismissed, by agreement of the parties, prior to the bench trial.

4. Prior to starting testimony, Mr. Colosimo made a Motion to exclude the Slide Show and June 23, 2020, Report of Redstone's expert Dr. Bruce. The Court heard argument, which is more fully set forth on the record, from Mr. Colosimo and Mr. Stanley. The Court took the matter under advisement.

5. Thereafter, Mr. LaSota provided information to the Court regarding the drawing of the Wall that Redstone sought to exclude on October 2, 2020. Mr. Stanley advised that Redstone's issue was how the square footage of the Wall was calculated, but he did not object to the drawing being admitted into evidence.

6. Thereafter, Bryon Willoughby was re-called to the stand and his cross examination by Mr. Stanley regarding the Redstone Report continued. During testimony, Mr. Stanley marked the following Exhibit, as it was not marked prior to trial: **Redstone 2a-42** (Emails from April 2016).

7. Thereafter, the Court recessed for a brief break.

8. Following the break, Mr. Willoughby was subject to re-direct examination by Mr. LaSota regarding the Redstone Report.

9. Thereafter, Mr. Willoughby was subject to direct examination by Mr. LaSota regarding the MarkWest claims. Mr. Willoughby primarily presented narrative testimony, pursuant to agreement of counsel, with some questioning by Mr. LaSota.

10. During the testimony of Mr. Willoughby, the Court recessed for a brief break. After the break, the testimony of Mr. Willoughby resumed.

11. Thereafter, Mr. Willoughby was subject to cross examination by Mr. Ward. During cross examination, the Court recessed for a lunch break.

12. After the lunch break, the cross examination of Mr. Willoughby by Mr. Ward resumed.

13. Thereafter, the Court recessed for a brief break.

14. Following the break, Mr. Willoughby was subject to cross examination by Mr. Stanley and by Mr. McConnell.

15. Thereafter, Mr. Willoughby was subject to re-direct examination by Mr. LaSota.

16. Thereafter, Mr. Willoughby was subject to re-cross examination by Mr. Ward.

17. Thereafter, Mr. Willoughby was dismissed as a witness and is not subject to recall.

18. Thereafter, the Court heard further argument, which is more fully set forth on the record, from Mr. Jacks and Mr. Colosimo regarding the Motion to exclude the Slide Show and June 23, 2020, Report of Redstone's expert Dr. Bruce. Mr. Colosimo agreed to review the Slide Show this evening and make notation of the portion(s) to which he has objection. Mr. Stanley and Mr. Jacks will review the objections and decide if they can agree to exclude the objectionable portion(s); if counsel for Redstone does not agree to the exclusion, the Court will make a ruling regarding Mr. Colosimo's objection(s). Therefore, this issue is deferred until tomorrow.

19. Thereafter, Mr. LaSota called Bryan Leatherman to the stand and he was duly sworn and subject to direct examination. During testimony, Mr. LaSota marked the following Exhibits, as they were not marked prior to trial: **J.F. Allen 238** (Photograph of an anchor); **J.F. Allen 239** (Photograph); **J.F. Allen 240** (Photograph); **J.F. Allen 241** (Photograph showing a crane); **J.F. Allen 242** (Photograph of drilling close-up); **J.F. Allen 243** (Photograph of a seeded

slope); J.F. Allen 244 (Photograph showing rock drains); J.F. Allen 245 (Photograph of rock blanket).

20. Thereafter, Mr. Jacks raised an issue regarding Terry Cunningham and Redstone Exhibits 8, 9, 10, 11, 16, 17, 20, 21, 33, 81, which discussion is more fully set forth on the record.

21. At 4:40 p.m. the proceedings adjourned for the day. The Court and counsel agreed to start testimony at 8:30 a.m. tomorrow.

It is **ORDERED**:

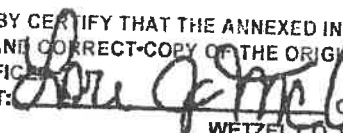
- ❖ The Circuit Clerk shall send this Order to all counsel of record.
- ❖ The Court notes the objections and exception of the parties to any adverse findings or rulings herein.

ENTERED this 6 day of October, 2020.



H. CHARLES CARL, III, JUDGE  
BUSINESS COURT DIVISION



HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN  
MY OFFICE.  
ATTEST:  CIRCUIT CLERK  
WETZEL CO. WEST VIRGINIA  
BY: \_\_\_\_\_ DEPUTY CLERK